

2.62.170 Leaves of absence.

Leaves of absence without pay may be granted by the appointing power, upon request of the employee, subject to the approval of the appointing authority and the mayor and the provisions of this section. Except in case of military leave, the appointing power should exercise discretion in granting leaves of absence, taking into consideration good conduct, length of service, efficiency of the employee and the sufficiency of the reasons for requesting the leave.

A. Leaves of Absence Without Pay.

1. A leave of absence without pay is an approved temporary absence from work in which the employee does not lose status as a regular employee. However, the employee's anniversary date (for purpose of performance evaluation and merit increase) and hire date (for purposes of vacation accumulation rates and seniority status) will be moved ahead by the number of working days between the time that the employee's name is removed from the payroll records and the day the employee returns from leave of absence.
2. Leave without pay may be considered for reasons of disability, personal reasons, or military service. To be eligible, employees must express in writing the proposed date the requested leave is to commence and the estimated date on which the employee expects to return to work.
3. An employee may petition the human resource director after receiving approval from the appropriate department/division head to take a leave without pay, without first using all sick and vacation hours. Approval will be handled on a case by case basis.

B. Disability Leave Without Pay. For the purpose of this chapter, disability is defined as an illness, physical or mental impairment, or pregnancy or complications related to pregnancy that prevents an employee from performing the essential functions of the job.

1. Procedure.

- a. Employee requests the leave as far in advance of the requested start date as possible;
- b. Employee must contact the supervisor prior to the scheduled expiration date of the leave giving the specific date which the employee plans to return to work. If the employee fails to return to work or receive approval for extended leave under policy guidelines, employment is automatically terminated as of the last day of the approved leave;
- c. The department head may request that the leave begin earlier than the date requested by the employee in order to insure satisfactory performance of job duties.

2. Approval. Department heads may approve leave up to ten days annually. The mayor and human resource director may approve leaves exceeding ten days up to a maximum of one year based upon recommendation of the department head. Upon good cause shown, the mayor may extend any leave of absence without pay upon recommendation of the department head.

3. Position Guarantee. Employees taking a disability leave without pay will be guaranteed a position of like status and pay for a period up to 90 days from the last active day of work. For a leave exceeding 90 days, the job guarantee will apply for the additional period of actual disability, and must be supported by a physician's statement.

4. City Required Statement. The city reserves the right to require a physician's statement and/or medical examination by a physician of its choosing, at city expense, relating to the granting of disability leave, extension of disability leave, or return to work.

C. Personal Leave Without Pay.

1. Eligible employee's requests for a leave of absence without pay for personal reasons will be considered on an individual basis at the city's discretion. The major factors to be considered are:

- a. The reason for the request;
- b. Length of service of the employee;
- c. Performance record of the employee;
- d. Probable extent of the leave.

2. Department Heads may approve personal leave without pay for up to ten days annually. The mayor and human resource director must approve such leaves exceeding ten days, up to a maximum of one year. Upon good cause shown, the mayor may extend any leave of absence without pay upon recommendation of the department head.

3. Position Guarantee. There is no job guarantee for employees taking personal leave without pay. However, the city will make every effort to place employees if a suitable opening exists, funds are available, and if the employee contacts the supervisor two to four weeks prior to the expiration of the leave.

D. Military Service Leave.

1. Murray City will abide by all the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and will grant military leave to all eligible employees. Military leave may be granted to employees for a period of four years plus one year voluntary extension of active duty (five years total) if this is at the request of the United States Government.

2. Employee Notice for military leave must be given to the department/division head usually accompanied by a copy of the employee's military orders no later than two calendar weeks prior to the commencement of leave.

3. Military leave will not be considered hours worked for the purposes of computing overtime.

4. Any full-time regular employee who is a member of the organized U.S. Army, Air Force, Navy, Coast Guard, Marine Reserves or State National Guard shall be permitted paid leave for up to 15 work days active duty training per calendar year and shall be compensated at his/her regular base rate of pay from the city. This leave shall be in addition to annual vacation leave with pay.

5. Any full time regular employee who is called up to active duty by Presidential Order will be provided the following benefits:

a. Subject to availability of funds, the City will pay the difference between the employee's regular pay at time of call up and their military pay, for a period not to exceed twenty-four consecutive months.

b. The City will continue to pay its share of the insurance premium for medical, dental and basic life insurance, for a period not to exceed twenty-four consecutive months. The employee must notify the City, in writing, if employee wants to continue City insurance coverage. The employee also has the option of using accrued vacation time to pay for their portion of the insurance premium.

6. Murray City will continue to make retirement contributions for a total and maximum amount of five years as if the returning veteran had not been absent from work.

7. Upon return from military leave, employees will be reinstated with the same seniority, pay, status, and benefit rights that they would have had if they had worked continuously. Employees must apply for employment within 90 days of discharge from the military. Employees who fail to report for work within the prescribed time after completion of military service will be considered to have voluntarily terminated their employment. [NOTE: If service was for less than 90 days, employers must restore them to the exact same job. If service was longer than 90 days, they must be restored to their same job or a similar job. There are special extension of time for returning employees who are hospitalized for or convalescing from injuries that incurred or were aggravated by military service.]

E. Family and Medical Leave Act (FMLA 29 CFR PART 825).

1. Under the FMLA, up to 12 weeks of unpaid leave shall be authorized to employees for birth, adoption, placement of a foster child or for a serious health condition of the employee, or care of a spouse, dependent child (under 18 years or disabled) or a parent of the employee with a serious health condition.

2. The 12 weeks of unpaid leave shall be based on the 12-month period measured forward from the date the employee's first FMLA leave begins.
3. To be eligible for FMLA leave, an employee must have been employed by the city at least 12 months, and have worked at least 1,250 hours within the previous 12 month period.
4. Leave to care for a new child must be taken within one year of the birth or placement for adoption or foster care.
5. The city shall require the employee to substitute any of the employee's accrued paid vacation leave or sick leave which may be used only for employee's own illness or to care for a seriously ill member of the employee's immediate family for any part of the 12-week leave period identified above, except as otherwise allowed under Section 2.62.170(A)(3).
6. If spouses are both employed by the City and seek leave for the birth of a child, placement for adoption or foster care or to care for a parent with a serious health condition, their combined leave is limited to 12 weeks.
7. When medically necessary, due to a serious health condition, leave may be taken on an intermittent, reduced work week or daily hours basis.
8. Leave taken for purposes of childbirth, adoption, placement for adoption or foster care shall not be taken by an employee on an intermittent or reduced work week or daily hours basis unless it is mutually agreed to by both employer and employee.
9. If the need for leave is foreseeable, the employee should give at least 30 days' notice, before the leave is to begin, that the employee intends to take leave. If the situation requires leave to begin in less than 30 days, the employee should provide such notice as soon as possible.
10. An employee returning from leave will be reinstated to the same job or an equivalent position.
11. An employee on an unpaid family or medical leave will be retained on the city health plan on the same conditions as active employees.
12. Employees who fail to return to work after family and medical leave shall reimburse the city for health plan premiums paid in behalf of the employee.
13. The city shall require medical certification for leaves based on employee or family member illness and may also require a second medical opinion at the city's expense, and a fitness for duty report to return to work.

F. Benefits Status for all Leaves of Absence.

1. Time on leave is not considered time worked. Therefore, vacation and sick leave credits do not accrue while on a leave of absence without pay. The effect of military leave will be determined under the law in effect when the military leave is taken.

2. Life, medical and dental insurance coverage may be continued while on leave without pay if the employee pays the full premium except as otherwise provided by law. A check covering the amount of the total insurance premiums due for the expected time an employee is on leave should be made payable to the city.

3. If an employee elects to discontinue insurance coverage during leave of absence without pay, the employee must reapply for insurance upon return from leave. Coverage will become effective on the date of re-employment, and the returning employee will be subject to any pre-existing condition insurance provisions which may then apply.